

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

REPUBLIC-VANGUARD INSURANCE
COMPANY,

Plaintiff,

vs.

CENTRAL STATE HOLDINGS, LLC,
et al.,

Defendants.

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Case No. 4:16-CV-1616 (CEJ)

MEMORANDUM AND ORDER

This matter is before the Court on the motion of plaintiff Republic-Vanguard Insurance Company for default judgment against defendant Enersource Electrical Contractors, LLC, pursuant to Federal Rule of Civil Procedure 55(b)(2).

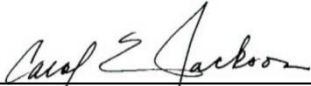
The record shows that service was achieved on Enersource on March 10, 2017. Under Federal Rule of Civil Procedure 12(a)(1)(A)(i), Enersource was required to file an answer or other responsive pleading within twenty-one days of being served with the complaint. Because Enersource failed to do so, the Court entered an order on April 17, 2017, directing the plaintiff to file a motion for entry of default. [Doc. #34]. The Clerk of Court entered default on April 28, 2017. [Doc. #37]. In the instant motion, plaintiff seeks default judgment in the form of a declaration that plaintiff has no duty to defend or indemnify Enersource under a commercial liability insurance policy. Defendant Enersource has not responded to the motion.

District courts have discretion in deciding motions for default judgment. See *Weitz Co. LLC v. MacKenzie House, LLC*, 665 F.3d 970, 978 (8th Cir. 2012). Here, default judgment against Enersource may affect the claims of other parties. Thus, for the purposes of this action, the better course is to defer judgment against the

defaulting party until the merits have been resolved. See *Geico Gen. Ins. Co. v. Henry*, No. 2:06-CV-31, 2006 WL 3544381, at *2 (D. N.D. Nov. 21, 2006) (citing *Angelo Iafrate Constr., LLC v. Potashnick Constr., Inc.*, 370 F.3d 715, 722 (8th Cir. 2004)). Therefore, in order to avoid inconsistent results, the plaintiff's motion will be denied without prejudice. See *id.*; *Atl. Cas. Ins. Co., Inc. v. Young*, No. 4:15-CV-00069 (AGF), 2015 WL 12850548 (E.D. Mo. Mar. 11, 2015); *United Fire & Cas. Ins. Co. v. Thompson*, 1:09-CV-00051 (LMB), 2010 WL 561578, at *2 (E.D. Mo. Feb. 10, 2010).

Accordingly,

IT IS HEREBY ORDERED that the motion of plaintiff Republic-Vanguard Insurance Company for default judgment against defendant Enersource Electrical Contractors, LLC [Doc. #35] is **denied without prejudice**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 25th day of May, 2017.